
HOUSE BILL No. 2044

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2-103; IC 8-1.5-4-14.

Synopsis: Utility charges for fire protection costs. Gives the Indiana utility regulatory commission authority to determine whether fire protection costs should be recovered from customers of a water utility other than the municipality that provides the fire protection services.

Effective: July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 2044

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2-103 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (a) No public
3 utility, or agent or officer thereof, or officer of any municipality
4 constituting a public utility, as defined in this chapter, may charge,
5 demand, collect, or receive from any person a greater or less
6 compensation for any service rendered or to be rendered, or for any
7 service in connection therewith, than that prescribed in the published
8 schedules or tariffs then in force or established as provided herein, or
9 than it charges, demands, collects, or receives from any other person
10 for a like and contemporaneous service. A person who recklessly
11 violates this subsection commits a Class A misdemeanor.

12 (b) Notwithstanding subsection (a), ~~of this section~~, if a city of less
13 than twenty thousand (20,000) in population according to the most
14 recent federal decennial census, constituting a public water utility, and
15 acting as a public utility prior to May 1, 1913, either as such city, or by
16 any commercial association, chamber of commerce, or committee with
17 the consent of such city, entered into any agreement with any person

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engaged in manufacturing any articles of commerce to furnish free water for a certain limited time as an inducement to such person so engaged in manufacturing to locate the establishment or manufacturing plant of such person within such city, such city may carry out such agreement to furnish free water to such person for the period of time remaining, as stipulated in such contract. This chapter does not prohibit any public utility from supplying or furnishing free service or service at special rates to any municipality, or any institution or agency of such municipality, in cases where the supplying or furnishing of such free service or service at special rates is stipulated in any provision of the franchise under which such public utility was operating before May 16, 1919, or, in the event that such franchise shall have been surrendered, from supplying or furnishing such free service or service at special rates until such time as the franchise would have expired had it not been surrendered under this chapter; and it shall be the duty of any utility operating under any franchise, stipulating for free service or service at special rates to municipality, or any institution or agency of such municipality, to furnish such free service or service at special rates.

(c) This subsection applies to a public utility that provides water for public fire protection services in both a county containing a consolidated city and in portions of counties that are adjacent to the county containing a consolidated city. This subsection applies throughout the territory served by the public utility. In the case of a public utility furnishing water and beginning on January 1, 1994, the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes shall be included in the basic rates of the customers of the public utility. However, the construction cost of any fire hydrant installed after December 31, 1993, at the request of a municipality, township, county, or other governmental unit shall be paid for by or on behalf of the municipality, township, county, or other governmental unit. The change in the recovery of current revenue authorized by this section shall be reflected in a new schedule of rates to be filed with the commission at least thirty (30) days before the time the new schedule of rates is to take effect. The new schedule of rates shall:

- (1) eliminate fire protection charges billed directly to governmental units, other than charges for the construction cost for new hydrants installed after December 31, 1993; and
- (2) increase the rates charged each customer of the utility, based on equivalent meter size, by an amount equal to:

(A) the revenues lost from the elimination of such fire



protection charges; divided by

(B) the current number of equivalent five-eighths (5/8) inch meters;

This change in the recovery of public fire protection costs shall not be considered to be a general increase in basic rates and charges of the public utility and is not subject to the notice and hearing requirements applicable to general rate proceedings. The commission shall approve the new schedule of rates that are to be effective January 1, 1994.

(d) This subsection applies to a public utility or a municipally owned water utility that is not subject to subsection (c). Except as provided in subsection (c); in the case of a public utility or municipally owned water utility furnishing water; if the governing body of the governmental unit with the greatest number of customers of the utility adopts an ordinance providing that costs shall be recovered under this subsection; the charges for the production, storage, transmission, sale and delivery; or furnishing of water for public fire protection purposes shall be included in the basic rates of all customers of the utility. However, on or after a date specified in the ordinance, the construction cost of any fire hydrant installed at the request of a municipality, township, county, or other governmental unit that adopts an ordinance under this subsection shall be paid for by or on behalf of the municipality, township, county, or other governmental unit. The change in the recovery of current revenue authorized by the ordinance shall be reflected in a new schedule of rates to be filed with the commission at least thirty (30) days before the time the new schedule of rates is to take effect. The new schedule of rates shall:

(1) eliminate fire protection charges billed directly to governmental units, other than charges for the construction cost for new hydrants installed on and after the date specified in the ordinance; and

(2) increase the rates charged each customer of the utility, based on equivalent meter size, by an amount equal to:

(A) the revenues lost from the elimination of such fire protection charges; divided by

(B) the current number of equivalent five-eighths (5/8) inch meters;

This change in the recovery of public fire protection costs shall not be considered to be a general increase in basic rates and charges of the utility and is not subject to the notice and hearing requirements applicable to general rate proceedings. The commission shall approve the new schedule of rates that are to be effective on a date specified in the ordinance.

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(c) This subsection applies to a municipally owned water utility in a city having a population of more than forty-three thousand (43,000) but less than forty-three thousand seven hundred (43,700). The city may adopt a plan to recover costs as described in subsection (d) without passing an ordinance, if the plan applies only to customers of the utility residing in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). If the city wishes to adopt such a plan, the city shall file a new schedule of rates with the commission, but is not subject to commission approval of the rates.

(f) In the case of a change in the method of recovering public fire protection costs under an ordinance adopted under subsection (d):

(1) on or after July 1, 1997, a customer of the utility located outside the limits of a municipality whose property is not located within one thousand (1,000) feet of a fire hydrant (measured from the hydrant to the nearest point on the property line of the customer) must be excluded from the increase in rates attributable to the change and must not be included in the number of equivalent five-eighths (5/8) inch meters for purposes of subsection (d)(2)(B); or

(2) before July 1, 1997, the commission may:

(A) in the context of a general rate proceeding initiated by the utility; or

(B) upon petition of:

(i) the utility;

(ii) the governmental unit that passed the ordinance; or

(iii) an affected customer;

prospectively exclude public fire protection costs from the rates charged to customers located outside the limits of any municipality whose property is not located within one thousand (1,000) feet of a fire hydrant (measured from the hydrant to the nearest point on the property line of the customer) if the commission authorizes a simultaneous increase in the rates of the utility's other customers to the extent necessary to prevent a loss of revenues to the utility.

An increase in the rates of the utility's other customers under subdivision (2) may not be construed to be a general increase in basic rates and charges of the utility and is not subject to the hearing requirements applicable to general rate proceedings. This subsection does not prohibit the commission from adopting different methods of public fire protection cost recovery for unincorporated areas after notice and hearing within the context of a general rate proceeding or

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other appropriate proceeding.

SECTION 2. IC 8-1.5-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) ~~This subsection applies to a municipality that is not subject to IC 8-1-2-103(c) or has not adopted an ordinance to become subject to IC 8-1-2-103(d). The reasonable cost and value of any service rendered to the municipality by the waterworks by furnishing water for public purposes or by maintaining hydrants and other facilities for fire protection shall be:~~

(1) charged against the municipality; and

(2) paid for in monthly installments as the service accrues out of the current revenues of the municipality, collected or in process of collection, and the tax levy of the municipality made by it to raise money to meet its necessary current expenses.

(b) ~~This subsection applies to a municipality that is subject to IC 8-1-2-103(c); that has adopted an ordinance to become subject to IC 8-1-2-103(d); or that has adopted a plan described in IC 8-1-2-103(d) as prescribed in IC 8-1-2-103(c). The reasonable cost and value of any service rendered to the municipality by the waterworks by furnishing water for public purposes shall be:~~

(1) charged against the municipality; and

(2) paid for in monthly installments as the service accrues out of the current revenues of the municipality, collected or in process of collection, and the tax levy of the municipality made by it to raise money to meet its necessary current expenses.

Except as provided in subsection (d), If approved by the commission as part of the utility's tariff structure, the cost and value of maintaining hydrants and other facilities for fire protection shall be excluded from the charges against the municipality and shall be recovered from the other customers of the waterworks. beginning on January 1, 1994, in a municipality subject to IC 8-1-2-103(c) and beginning on a date provided in the ordinance for a municipality that adopts an ordinance under IC 8-1-2-103(d). The change in the recovery of current revenue authorized by this section shall be reflected in a schedule of new rates to be filed with the commission at least thirty (30) days before the time the schedule of new rates is to take effect.

(c) The compensation for the service provided to the municipality shall, in the manner prescribed by this chapter, be paid into the separate and special fund created by setting aside the income and revenues of the waterworks and is subject to apportionment to the operating, maintenance, depreciation, and bond and interest redemption accounts.

(d) This subsection applies to a city having a population of more than forty-three thousand (43,000) but less than forty-three thousand

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1 seven hundred (43,700). The cost and value of maintaining hydrants
2 and other facilities for fire protection may be recovered from customers
3 of the waterworks residing:

4 (1) in a county having a population of more than two hundred
5 thousand (200,000) but less than three hundred thousand
6 (300,000); and

7 (2) in a township having a population of more than six thousand
8 (6,000) but less than seven thousand (7,000) located in a county
9 having a population of more than one hundred fifty thousand
10 (150,000) but less than one hundred sixty thousand (160,000);

11 beginning on a date determined by the city. The city shall file a new
12 schedule of rates with the commission as set forth in subsection (b), but
13 is not subject to commission approval of the rates.

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